

103^D CONGRESS
1ST SESSION

H. R. 3333

To amend the Internal Revenue Code of 1986 to allow individuals a deduction for contributions to a Medisave account.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 21, 1993

Mr. HOKE introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow individuals a deduction for contributions to a Medisave account.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medisave Patient
5 Empowerment Act of 1993”.

6 **SEC. 2. MEDISAVE ACCOUNTS.**

7 (a) IN GENERAL.—Part VII of subchapter B of chap-
8 ter 1 of the Internal Revenue Code of 1986 (relating to
9 additional itemized deductions for individuals) is amended

1 by redesignating section 220 as section 221 and by insert-
2 ing after section 219 the following new section:

3 **“SEC. 220. MEDISAVE ACCOUNTS.**

4 “(a) DEDUCTION ALLOWED.—In the case of an eligi-
5 ble individual, there shall be allowed as a deduction the
6 amounts paid in cash during the taxable year by or on
7 behalf of such individual to a Medisave account for the
8 benefit of such individual and (if any) such individual’s
9 spouse and dependents if such spouse and dependents are
10 eligible individuals.

11 “(b) LIMITATIONS.—

12 “(1) ONLY 1 ACCOUNT PER FAMILY.—Except as
13 provided in regulations prescribed by this Secretary,
14 no deduction shall be allowed under subsection (a)
15 for amounts paid to any Medisave account for the
16 benefit of an individual, such individual’s spouse, or
17 any dependent of such individual or spouse if such
18 individual, spouse, or dependent is a beneficiary of
19 any other Medisave account.

20 “(2) DOLLAR LIMITATION.—The amount allow-
21 able as a deduction under subsection (a) for the tax-
22 able year shall not exceed the lesser of—

23 “(A) the lowest deductible under any cata-
24 strophic health plan providing coverage to any
25 beneficiary of the Medisave account, or

1 “(B)(i) \$2,500, or

2 “(ii) \$5,000 if the catastrophic health plan
3 covering the taxpayer provides coverage for
4 more than 1 individual.

5 “(c) DEFINITIONS.—For purposes of this section—

6 “(1) ELIGIBLE INDIVIDUAL.—The term ‘eligible
7 individual’ means any individual who is covered
8 under a catastrophic health plan throughout the cal-
9 endar year in which or with which the taxable year
10 ends.

11 “(2) CATASTROPHIC HEALTH PLAN.—For pur-
12 poses of paragraph (1)—

13 “(A) IN GENERAL.—The term ‘cata-
14 strophic health plan’ means a health plan cover-
15 ing specified expenses incurred by an individual
16 for medical care for such individual and the
17 spouse and dependents (as defined in section
18 152) of such individual only to the extent such
19 expenses covered by the plan for any calendar
20 year exceed \$1,800 (\$3,600 if the catastrophic
21 health plan covering the taxpayer provides cov-
22 erage for more than 1 individual) or such high-
23 er amounts as may be specified by the plan.

24 “(B) COST-OF-LIVING ADJUSTMENT.—In
25 the case of any calendar year after 1994, each

1 dollar amount in subparagraph (A) shall be in-
2 creased by an amount equal to—

3 “(i) such dollar amount, multiplied by

4 “(ii) the cost-of-living adjustment de-
5 termined under section 1(f)(3) for such
6 calendar year.

7 If any increase under the preceding sentence is
8 not a multiple of \$50, such increase shall be
9 rounded to the nearest multiple of \$50.

10 “(d) MEDISAVE ACCOUNTS.—For purposes of this
11 section—

12 “(1) MEDISAVE ACCOUNT.—

13 “(A) IN GENERAL.—The term ‘Medisave
14 account’ means a trust created or organized in
15 the United States exclusively for the purpose of
16 paying the medical expenses of the beneficiaries
17 of such trust, but only if the written governing
18 instrument creating the trust meets the follow-
19 ing requirements:

20 “(i) Except in the case of a rollover
21 contribution described in subsection (e)(4),
22 no contribution will be accepted unless it is
23 in cash, and contributions will not be ac-
24 cepted in excess of the amount allowed as
25 a deduction under this section for the tax-

1 able year (or would be allowed as such a
2 deduction but for subsection (c)(1)(C)).

3 “(ii) The trustee is a bank (as defined
4 in section 408(n)) or another person who
5 demonstrates to the satisfaction of the Sec-
6 retary that the manner in which such per-
7 son will administer the trust will be con-
8 sistent with the requirements of this sec-
9 tion.

10 “(iii) No part of the trust assets will
11 be invested in life insurance contracts.

12 “(iv) The assets of the trust will not
13 be commingled with other property except
14 in a common trust fund or common invest-
15 ment fund.

16 “(v) The interest of an individual in
17 the balance in his account is nonforfeit-
18 able.

19 “(vi) Under regulations prescribed by
20 the Secretary, rules similar to the rules of
21 section 401(a)(9) shall apply to the dis-
22 tribution of the entire interest of bene-
23 ficiaries of such trust.

24 “(B) TREATMENT OF COMPARABLE AC-
25 COUNTS HELD BY INSURANCE COMPANIES.—

1 For purposes of this section, an account held by
2 an insurance company in the United States
3 shall be treated as a Medisave account (and
4 such company shall be treated as a bank) if—

5 “(i) such account is part of a health
6 insurance plan that includes a catastrophic
7 health plan (as defined in subsection
8 (c)(2)),

9 “(ii) such account is exclusively for
10 the purpose of paying the medical expenses
11 of the beneficiaries of such account who
12 are covered under such catastrophic health
13 plan, and

14 “(iii) the written instrument govern-
15 ing the account meets the requirements of
16 clauses (i), (v), and (vi) of subparagraph
17 (A).

18 “(2) MEDICAL EXPENSES.—

19 “(A) IN GENERAL.—The term ‘medical ex-
20 penses’ means, with respect to an individual,
21 amounts paid or incurred by such individual
22 for—

23 “(i) medical care (as defined in sec-
24 tion 213), or

1 “(ii) long-term care (as defined in
2 paragraph (3)),
3 for such individual, the spouse of such individ-
4 ual, and any dependent (as defined in section
5 152) of such individual, but only to the extent
6 such amounts are not compensated for by in-
7 surance or otherwise.

8 “(B) HEALTH PLAN COVERAGE MAY NOT
9 BE PURCHASED FROM ACCOUNT.—

10 “(i) IN GENERAL.—Such term shall
11 not include any amount paid for coverage
12 under a health plan.

13 “(ii) EXCEPTION.—Clause (i) shall
14 not apply to coverage of an individual
15 under a catastrophic health plan or under
16 a long-term care insurance plan.

17 “(3) LONG-TERM CARE.—

18 “(A) IN GENERAL.—The term ‘long-term
19 care’ means diagnostic, preventive, therapeutic,
20 rehabilitative, maintenance, or personal care
21 services which are required by, and provided to,
22 a chronically ill individual, which have as their
23 primary purpose the direct provision of needed
24 assistance with 1 or more activities of daily liv-
25 ing (or the alleviation of the conditions neces-

1 sitating such assistance) that the individual is
2 certified under subparagraph (B) as being un-
3 able to perform, and which are provided in a
4 setting other than an acute care unit of a hos-
5 pital pursuant to a continuing plan of care pre-
6 scribed by a physician or registered professional
7 nurse. Such term does not include food or lodg-
8 ing provided in an institutional or other setting,
9 or basic living services associated with the
10 maintenance of a household or participation in
11 community life, such as case management,
12 transportation or legal services, or the perform-
13 ance of home maintenance or household chores.

14 “(B) CHRONICALLY ILL INDIVIDUAL.—The
15 term ‘chronically ill individual’ means an indi-
16 vidual who is certified by a physician or reg-
17 istered professional nurse as being unable to
18 perform at least 3 activities of daily living with-
19 out substantial assistance from another individ-
20 ual. For purposes of this paragraph, the term
21 ‘activities of daily living’ means bathing, dress-
22 ing, eating, toileting, transferring, and walking.

23 “(4) TIME WHEN CONTRIBUTIONS DEEMED
24 MADE.—A contribution shall be deemed to be made
25 on the last day of the preceding taxable year if the

1 contribution is made on account of such taxable year
2 and is made not later than the time prescribed by
3 law for filing the return for such taxable year (not
4 including extensions thereof).

5 “(e) TAX TREATMENT OF DISTRIBUTIONS.—

6 “(1) IN GENERAL.—Any amount paid or dis-
7 tributed out of a Medisave account shall be included
8 in the gross income of the individual for whose bene-
9 fit such account was established unless such amount
10 is used exclusively to pay the medical expenses of
11 such individual.

12 “(2) EXCESS CONTRIBUTIONS RETURNED BE-
13 FORE DUE DATE OF RETURN.—Paragraph (1) shall
14 not apply to the distribution of any contribution paid
15 during a taxable year to a Medisave account to the
16 extent that such contribution exceeds the amount al-
17 lowable as a deduction under subsection (a) if—

18 “(A) such distribution is received by the
19 individual on or before the last day prescribed
20 by law (including extensions of time) for filing
21 such individual’s return for such taxable year,
22 and

23 “(B) such distribution is accompanied by
24 the amount of net income attributable to such
25 excess contribution.

1 Any net income described in subparagraph (B) shall
2 be included in the gross income of the individual for
3 the taxable year in which it is received.

4 “(3) PENALTY FOR DISTRIBUTIONS NOT USED
5 FOR MEDICAL EXPENSES.—

6 “(A) IN GENERAL.—The tax imposed by
7 this chapter for any taxable year in which there
8 is a payment or distribution from a Medisave
9 account which is not used to pay the medical
10 expenses of the individual for whose benefit the
11 account was established shall be increased by
12 10 percent of the amount of such payment or
13 distribution which is includible in gross income
14 under paragraph (1).

15 “(B) ACCOUNT BALANCE LIMITATION.—
16 If—

17 “(i) the tax imposed by this chapter is
18 required to be increased under subpara-
19 graph (A) by reason of a distribution, and

20 “(ii) after such distribution, the ag-
21 gregate balance of all Medisave accounts
22 established for the benefit of the individ-
23 ual, is less than the amount of the deduct-
24 ible under the catastrophic health plan cov-
25 ering such individual,

1 subparagraph (A) shall be applied by substitut-
2 ing ‘50 percent’ for ‘10 percent’.

3 “(4) ROLLOVERS.—Paragraph (1) shall not
4 apply to any amount paid or distributed out of a
5 Medisave account to the individual for whose benefit
6 the account is maintained if the entire amount re-
7 ceived (including money and any other property) is
8 paid into another Medisave account for the benefit
9 of such individual not later than the 60th day after
10 the day on which he received the payment or dis-
11 tribution.

12 “(f) TAX TREATMENT OF ACCOUNTS.—

13 “(1) EXEMPTION FROM TAX.—Any Medisave
14 account is exempt from taxation under this subtitle
15 unless such account has ceased to be a Medisave ac-
16 count by reason of paragraph (2) or (3). Notwith-
17 standing the preceding sentence, any such account
18 shall be subject to the taxes imposed by section 511
19 (relating to imposition of tax on unrelated business
20 income of charitable, etc. organizations).

21 “(2) ACCOUNT TERMINATES IF INDIVIDUAL EN-
22 GAGES IN PROHIBITED TRANSACTION.—

23 “(A) IN GENERAL.—If, during any taxable
24 year of the individual for whose benefit the
25 Medisave account was established, such individ-

1 ual engages in any transaction prohibited by
2 section 4975 with respect to the account, the
3 account ceases to be a Medisave account as of
4 the first day of that taxable year.

5 “(B) ACCOUNT TREATED AS DISTRIBUTING
6 ALL ITS ASSETS.—In any case in which any ac-
7 count ceases to be a Medisave account by rea-
8 son of subparagraph (A) on the first day of any
9 taxable year, paragraph (1) of subsection (e)
10 shall be applied as if there were a distribution
11 on such first day in an amount equal to the fair
12 market value (on such first day) of all assets in
13 the account (on such first day) and no portion
14 of such distribution were used to pay medical
15 expenses.

16 “(3) EFFECT OF PLEDGING ACCOUNT AS SECUR-
17 ITY.—If, during any taxable year, the individual for
18 whose benefit a Medisave account was established
19 uses the account or any portion thereof as security
20 for a loan, the portion so used is treated as distrib-
21 uted to that individual and not used to pay medical
22 expenses.

23 “(g) CUSTODIAL ACCOUNTS.—For purposes of this
24 section, a custodial account shall be treated as a trust if—

1 “(1) the assets of such account are held by a
2 bank (as defined in section 408(n)) or another per-
3 son who demonstrates to the satisfaction of the Sec-
4 retary that the manner in which he will administer
5 the account will be consistent with the requirements
6 of this section, and

7 “(2) the custodial account would, except for the
8 fact that it is not a trust, constitute a Medisave ac-
9 count described in subsection (d).

10 For purposes of this title, in the case of a custodial ac-
11 count treated as a trust by reason of the preceding sen-
12 tence, the custodian of such account shall be treated as
13 the trustee thereof.

14 “(h) REPORTS.—The trustee of a Medisave account
15 shall make such reports regarding such account to the
16 Secretary and to the individual for whose benefit the ac-
17 count is maintained with respect to contributions, dis-
18 tributions, and such other matters as the Secretary may
19 require under regulations. The reports required by this
20 subsection shall be filed at such time and in such manner
21 and furnished to such individuals at such time and in such
22 manner as may be required by those regulations.”

23 (b) DEDUCTION ALLOWED WHETHER OR NOT INDIV-
24 VIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a)

1 of section 62 of such Code is amended by inserting after
2 paragraph (17) the following new paragraph:

3 “(18) MEDISAVE ACCOUNTS.—The deduction
4 allowed by section 220.”

5 (c) DISTRIBUTIONS FROM MEDISAVE ACCOUNTS
6 NOT ALLOWED AS MEDICAL EXPENSE DEDUCTION.—
7 Section 213 of such Code is amended by adding at the
8 end thereof the following new subsection:

9 “(g) COORDINATION WITH MEDISAVE ACCOUNTS.—
10 The amount otherwise taken into account under sub-
11 section (a) as expenses paid for medical care shall be re-
12 duced by the amount (if any) of the distributions from
13 any Medisave account of the taxpayer during the taxable
14 year which is not includible in gross income by reason of
15 being used for medical care.”

16 (d) EXCLUSION OF EMPLOYER CONTRIBUTIONS TO
17 MEDISAVE ACCOUNTS FROM EMPLOYMENT TAXES.—

18 (1) SOCIAL SECURITY TAXES.—

19 (A) Subsection (a) of section 3121 of such
20 Code is amended by striking “or” at the end of
21 paragraph (20), by striking the period at the
22 end of paragraph (21) and inserting “; or”, and
23 by inserting after paragraph (21) the following
24 new paragraph:

1 “(22) remuneration paid to or on behalf of an
2 employee if (and to the extent that) at the time of
3 payment of such remuneration it is reasonable to be-
4 lieve that a corresponding deduction is allowable
5 under section 220.”

6 (B) Subsection (a) of section 209 of the
7 Social Security Act is amended by striking “or”
8 at the end of paragraph (17), by striking the
9 period at the end of paragraph (18) and insert-
10 ing “; or”, and by inserting after paragraph
11 (18) the following new paragraph:

12 “(19) remuneration paid to or on behalf of an
13 employee if (and to the extent that) at the time of
14 payment of such remuneration it is reasonable to be-
15 lieve that a corresponding deduction is allowable
16 under section 220 of the Internal Revenue Code of
17 1986.”

18 (2) RAILROAD RETIREMENT TAX.—Subsection
19 (e) of section 3231 of such Code is amended by add-
20 ing at the end thereof the following new paragraph:

21 “(10) EMPLOYER CONTRIBUTIONS TO
22 MEDISAVE ACCOUNTS.—The term ‘compensation’
23 shall not include any payment made to or on behalf
24 of an employee if (and to the extent that) at the
25 time of payment of such remuneration it is reason-

1 able to believe that a corresponding deduction is al-
2 lowable under section 220.”

3 (3) UNEMPLOYMENT TAX.—Subsection (b) of
4 section 3306 of such Code is amended by striking
5 “or” at the end of paragraph (15), by striking the
6 period at the end of paragraph (16) and inserting “;
7 or”, and by inserting after paragraph (16) the fol-
8 lowing new paragraph:

9 “(17) remuneration paid to or on behalf of an
10 employee if (and to the extent that) at the time of
11 payment of such remuneration it is reasonable to be-
12 lieve that a corresponding deduction is allowable
13 under section 220.”

14 (4) WITHHOLDING TAX.—Subsection (a) of sec-
15 tion 3401 of such Code is amended by striking “or”
16 at the end of paragraph (19), by striking the period
17 at the end of paragraph (20) and inserting “; or”,
18 and by inserting after paragraph (20) the following
19 new paragraph:

20 “(21) remuneration paid to or on behalf of an
21 employee if (and to the extent that) at the time of
22 payment of such remuneration it is reasonable to be-
23 lieve that a corresponding deduction is allowable
24 under section 220.”

1 (e) TAX ON EXCESS CONTRIBUTIONS.—Section 4973
2 of such Code (relating to tax on excess contributions to
3 individual retirement accounts, certain section 403(b) con-
4 tracts, and certain individual retirement annuities) is
5 amended—

6 (1) by inserting “**MEDISAVE ACCOUNTS,**”
7 after “**ACCOUNTS,**” in the heading of such section,

8 (2) by redesignating paragraph (2) of sub-
9 section (a) as paragraph (3) and by inserting after
10 paragraph (1) the following:

11 “(2) a Medisave account (within the meaning of
12 section 220(d)),”,

13 (3) by striking “or” at the end of paragraph
14 (1) of subsection (a), and

15 (4) by adding at the end thereof the following
16 new subsection:

17 “(d) EXCESS CONTRIBUTIONS TO MEDISAVE AC-
18 COUNTS.—For purposes of this section, in the case of a
19 Medisave account (within the meaning of section 220(d)),
20 the term ‘excess contributions’ means the amount by
21 which the amount contributed for the taxable year to the
22 account exceeds the amount excludable from gross income
23 under section 220 for such taxable year. For purposes of
24 this subsection, any contribution which is distributed out
25 of the Medisave account in a distribution to which section

1 220(e)(2) applies shall be treated as an amount not con-
2 tributed.”

3 (f) TAX ON PROHIBITED TRANSACTIONS.—Section
4 4975 of such Code (relating to prohibited transactions)
5 is amended—

6 (1) by adding at the end of subsection (c) the
7 following new paragraph:

8 “(4) SPECIAL RULE FOR MEDISAVE AC-
9 COUNTS.—An individual for whose benefit a
10 Medisave account (within the meaning of section
11 220(d)) is established shall be exempt from the tax
12 imposed by this section with respect to any trans-
13 action concerning such account (which would other-
14 wise be taxable under this section) if, with respect
15 to such transaction, the account ceases to be a
16 Medisave account by reason of the application of
17 section 220(e)(2)(A) to such account.”, and

18 (2) by inserting “or a Medisave account de-
19 scribed in section 220(d)” in subsection (e)(1) after
20 “described in section 408(a)”.

21 (g) FAILURE TO PROVIDE REPORTS ON MEDISAVE
22 ACCOUNTS.—Section 6693 of such Code (relating to fail-
23 ure to provide reports on individual retirement account or
24 annuities) is amended—

1 (1) by inserting “**OR ON MEDISAVE AC-**
2 **COUNTS**” after “**ANNUITIES**” in the heading of
3 such section, and

4 (2) by adding at the end of subsection (a) the
5 following: “The person required by section 220(h) to
6 file a report regarding a Medisave account at the
7 time and in the manner required by such section
8 shall pay a penalty of \$50 for each failure unless it
9 is shown that such failure is due to reasonable
10 cause.”

11 (h) CLERICAL AMENDMENTS.—

12 (1) The table of sections for part VII of sub-
13 chapter B of chapter 1 of such Code is amended by
14 striking the last item and inserting the following:

“Sec. 220. Medisave accounts.
“Sec. 221. Cross reference.”

15 (2) The table of sections for chapter 43 of such
16 Code is amended by striking the item relating to sec-
17 tion 4973 and inserting the following:

“Sec. 4973. Tax on excess contributions to individual retirement
accounts, medisave accounts, certain 403(b) con-
tracts, and certain individual retirement annuities.”

18 (3) The table of sections for subchapter B of
19 chapter 68 of such Code is amended by inserting “or
20 on Medisave accounts” after “annuities” in the item
21 relating to section 6693.

1 (i) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1993.

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